

009857



THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

114
07/29

DATE ISSUED: July 16, 2008 REPORT NO: 08-117
ATTENTION: Council President and City Council
Docket of July 29, 2008
DEPARTMENT:
SUBJECT: **REGIONAL INTEROPERABLE COMMUNICATIONS GRANT
FUNDED EXPENDITURE: AMENDMENT #1 TO AGREEMENT**
COUNCIL DISTRICT(S): All
CONTACT/PHONE NO. Lisa Stapleton 533-4392 Ms 9a Sara Diaz 916-8157 Ms 704a

REQUESTED ACTION:

- Authorize City to enter into Amendment #1 to the Agreement with ESA as outlined in the attached Executive Summary and Statement of Work
- Authorize the City Auditor and Comptroller to appropriate and expend a maximum of \$544,000 in grant funds with ESA in the continuing development, implementation and refinement of this project.
- Authorize the Chief of Police and the Director of the City's Office of Homeland Security to direct and oversee this expenditure, in compliance with the grant program.

STAFF RECOMMENDATION: Authorize the requested actions.

EXECUTIVE SUMMARY: On April 11, 2005, in Resolution R-300311, Council authorized City to accept and expend a federal grant from the Office of Community Oriented Policing (COPS) Making Officer Redeployment Effective (MORE) for the development of a far-southwest region interoperable Command and Control Communications (3Cs) system. This system will improve public safety by adding capacity and linking area emergency services in an integrated, interoperable microwave communication network, establishing reliable and secure transport of high speed and high capacity voice and data communications during critical incidents.

On June 22, 2006, in Resolution R-301551, Council authorized City to accept and expend an Urban Areas Security Initiative (UASI) federal grant to assist high-density, high-threat urban areas in developing and maintaining advanced emergency incident response systems. One project of UASI is collaborating in developing and funding the 3Cs system.

On May 3, 2007, in Document RR-302411, Council authorized City to enter into an agreement with Enforcement Support Agency [Contractor] to provide project management services and technical support for the regional Command & Control Communications (3Cs) project; and

The purpose of this action is to approve grant expenditures for the continuing development, implementation and refinement of the 3Cs system via project management services and technical consulting. Under the attached agreement, Enforcement Support Agency (ESA) will continue to

lead project management and coordination, application layer planning, development of doctrine and end use specifications, and system documentation for Phase II of the 3Cs project. The ESA Work Elements are outlined in the Statement of Work.

All formal agreement and purchasing procedures will be accomplished in complete compliance with City, State and Federal laws and regulations.

EEO: This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS: This action will not result in any new unbudgeted expenditure. All expenditures authorized under this action will be grant funded, as follows:

- a) UASI 2007 grant funds: \$459,321.95. UASI Funds for this purpose are currently available. Funding is on a reimbursement basis; City expends funds, and invoices grantor for the expenditures; grantor will then reimburse City.
- b) b. COPS MORE 2004 USDOJ grant funds \$84,678.05. Funding is on a reimbursement basis; City expends funds, and invoices grantor for the expenditures; grantor will then reimburse City. COPS MORE 2004 Funds for this purpose are contingent upon formal approval of a budget modification by COPS. These funds will NOT be expended until such approval is received. Contractor understands that in the event said funds do not become available, he may cease work on this project after the available funds are depleted, and recommence work if the additional funds become available.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Council approved the acceptance and expenditure of the COPS MORE Interoperability 3Cs grant program in R-300311.

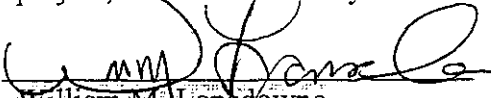
Council approved the acceptance and expenditure of the UASI grant program in R-301551.

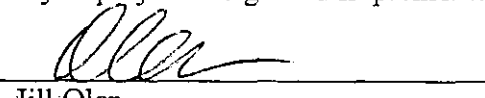
Council approved previous grant funded expenditures for the 3Cs Project in R-301995 (Videoconferencing); and R-301636 (Harris Corporation). Neither of these was with ESA.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: NA

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Enforcement Support Agency (ESA), 550 Fesler Street, Suite G-1, El Cajon, CA (619) 401-1120.

IMPACT: Approval of this action will allow the City to continue working with the contractor (ESA) that has been central to development and implementation of the Regional Interoperability Communications project since its inception. This is an exceptionally complex technological project, and this continuity is vital to seamless efficiency in project design and implementation.


William M. Lansdowne
Chief of Police
Originating Department


Jill Olen
Deputy Chief Operating Officer
Public Safety/Homeland Security

000859 REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO		1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY) 2800887					
114 07/29							
TO: CITY ATTORNEY		2. FROM (ORIGINATING DEPARTMENT): POLICE DEPARTMENT					
3. DATE: May 12, 2008							
4. SUBJECT: REGIONAL INTEROPERABLE COMMUNICATIONS GRANT FUNDED EXPENDITURE: AMENDMENT #1 TO AGREEMENT (3CS ESA)							
5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.) Sara Diaz 619-916-8157 MS 704A		6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.) Lisa Stapleton 619-533-4392 MS 9A					
		7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED <input checked="" type="checkbox"/>					
8. COMPLETE FOR ACCOUNTING PURPOSES							
FUND	UASI 2007 GRANT	COPS Tech 2004	9. Additional information / estimated cost:				
	18895	18856	The City administers the Regional Command and Control Communications (3Cs) system grant, and the Urban Area Security Initiative (UASI) grant. Enforcement Support Agency (ESA) is a grant-funded subcontractor. The City wishes to amend the existing agreement with ESA to expend \$544,000 additional grant funds and extend contract period to continue implementation and refinement of the 3Cs system. All expenditures are grant funded.				
DEPT.	18895	18856					
ORGANIZATION	1050	100					
OBJECT ACCOUNT	4222	4222					
JOB ORDER	188957	018856					
C.I.P. NUMBER							
AMOUNT	\$459,321.95	\$84,678.05					
10. ROUTING AND APPROVALS							
ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	POLICE DEPARTMENT	<i>[Signature]</i>	5/12/08	9			
2	OFFICE OF HOMELAND SECURITY	<i>[Signature]</i>	5/12/08	10	DEPUTY CHIEF OPERATING OFFICER	<i>[Signature]</i>	6-17-08
3	GRANTS	<i>[Signature]</i>	5/13/08	11	CHIEF OPERATING OFFICER	<i>[Signature]</i>	6-17-08
4	ENVIRONMENTAL ANALYSIS	<i>[Signature]</i>	5/21/08	12	ORIGINATING DEPARTMENT	<i>[Signature]</i>	6/18/08
5	EOCP	<i>[Signature]</i>	5/20/08	13	CITY ATTORNEY	<i>[Signature]</i>	7/15/08
6	LIAISON OFFICE	<i>[Signature]</i>	5/27/08	DOCKET COORD: _____ COUNCIL LIAISON: <i>[Signature]</i>			
7	FINANCIAL MGMT	<i>[Signature]</i>	6/3/08	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <i>[Signature]</i> <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 7/28/08			
8	AUDITOR	<i>[Signature]</i>	6/10/08				
11. PREPARATION OF: <input checked="" type="checkbox"/> RESOLUTION(S) <input type="checkbox"/> ORDINANCE(S) <input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)							
Authorize the Mayor to enter into Amendment #1 to the Agreement with ESA as outlined in the attached Executive Summary and Statement of Work.							
Authorize the Auditor and Comptroller to appropriate and expend a maximum of \$544,000 in grant funds with ESA in the continuing development, implementation, and refinement of this project.							
Authorize the Chief of Police and the Program Manager of the City's Office of Homeland Security to direct and oversee this expenditure, in compliance with the grant programs.							
11A. STAFF RECOMMENDATIONS: AUTHORIZE THE ACTIONS IN BOX 11.							
12. SPECIAL CONDITIONS:							
<u>COUNCIL DISTRICT(S): ALL</u>							
<u>COMMUNITY AREA(S): ALL</u>							
<u>ENVIRONMENTAL IMPACT:</u> This activity is not a "project" and therefore is exempt from CEQA pursuant to the state guidelines section 15060 (c) (2).							
<u>HOUSING IMPACT:</u> NA							
<u>OTHER ISSUES:</u> UASI funds are currently available. Funds from COPS 2004 are contingent upon formal COPS approval of a requested budget modification, and will not be expended until such approval is received.							
<u>EEO:</u> This agreement is subject to the City's Equal Opportunity Contracting (San Diego ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination in contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).							
<u>PLEASE SEND A COPY OF THE FINALIZED RESOLUTION TO DONNA WARLICK, MS 704A</u>							

000861

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

AC 2800887
ORIGINATING
DEPT. NO.: 110

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$544,000.00

Vendor: Enforcement Support Agency, Inc.

Purpose: Authorize the first amendment to the agreement and the expenditure of funds for development, implementation, and refinement of the 3C's system.

Date: June 10, 2008 By: Faye Howard-Hall

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	0	18895	18895	1050	4222	188957				\$459,321.95
002		18856	18856	100	4222	018856				84,678.05
TOTAL AMOUNT										\$544,000.00

AC-351 (REV 2-92)

FUND OVERRIDE ☐

AC 2800887

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

SOUTHWEST REGIONAL INTEROPERABLE
COMMUNICATIONS GRANT FUNDED EXPENDITURE

WHEREAS, the San Diego Police Department [SDPD] previously accepted and received a federal grant from the Office of Community Oriented Policing [COPS] Making Officer Redeployment Effective [MORE] for the development of a far-southwest regional interoperable Command and Control Communications [3Cs] system; and

WHEREAS, SDPD previously accepted and received an Urban Areas Security Initiative [UASI] federal grant to assist high-density, high-threat urban areas in developing and maintaining advanced emergency incident response systems; and

WHEREAS, the City of San Diego administers both grants; and

WHEREAS, the City entered into an agreement with Enforcement Support Agency [ESA] in ongoing development, implementation and refinement of the 3Cs system utilizing these grant funds; and

WHEREAS, the City desires to amend that Agreement for Phase III of the 3Cs project; and

WHEREAS, all expenditures authorized by this action are grant funded, NOW,
THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his representative be and hereby is authorized and empowered, to enter into an amendment to the agreement with ESA as outlined in the draft Statement of Work, on file with the City Clerk's Office as Document No. RR-_____.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller be and is hereby authorized and empowered, to appropriate and expend an amount not to exceed \$544,000 in grant funds with ESA in the continuing development, implementation and refinement of this project, with \$459,321.95 from USAI monies and \$84,678.05 from COPS MORE monies.

BE IT FURTHER RESOLVED, that the Chief of Police and the Director of the City's Office of Homeland Security are to direct and oversee this expenditure, in compliance with the grant program.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Mary T. Nuesca
Mary T. Nuesca
Deputy City Attorney

MTN:aml
07/14/08
Or.Dept:Police
R-2009-72

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

**CITY OF SAN DIEGO
POLICE DEPARTMENT**



**AMENDMENT NUMBER 1
TO THE AGREEMENT BETWEEN THE
CITY OF SAN DIEGO AND
ENFORCEMENT SUPPORT AGENCY [ESA]
FOR PROJECT MANAGEMENT SERVICES AND TECHNICAL SUPPORT
FOR THE
REGIONAL COMMAND & CONTROL COMMUNICATIONS (3Cs) PROJECT**

WHEREAS, on May 3, 2007 the City of San Diego [City] and Enforcement Support Agency [Contractor] entered into an agreement to provide project management services and technical support for the regional Command & Control Communications (3Cs) project [Agreement], a copy of which is on file in the office of the City Clerk as Document No. RR-302411; and

WHEREAS, the City and Contractor mutually desire to amend the Agreement and to incorporate the Statement of Work for 3Cs Phase III as described in Exhibit A, which is incorporated by reference into this Amendment Number 1.

NOW THEREFORE, the City and Contractor amend the Agreement, as follows:

1. Section 1.2, Scope of Work, shall be amended to add the following language at the end of the current provisions:

“During the contract extension period beginning April 30, 2008 and continuing through April 30, 2009, ESA will continue to lead project coordination, application layer planning, procedure development and training, development of end use specifications, and system documentation for the Phase III efforts associated with the overall 3Cs project. In doing so, ESA will contribute to the project the work elements described in the attached Exhibit A, Statement of Work.”

2. Section 2.1, Term of Agreement, shall be amended to the period of April 30, 2008 through April 30, 2009.

3. Section 3.2, Manner of Payment, shall be amended to add the following language at the end of the current provisions to describe the manner of payment for 3Cs Phase III:

"City shall pay ESA for the amended agreement period beginning August 1, 2008, and continuing through April 30, 2009, using the payment schedule described below, in the following payment amounts:

"Project Staffing Costs shall be billed to City on a recurring monthly basis beginning August 1, 2008, using the same invoicing method described for Phase II of the project. Personnel Staffing Costs during the amended contract period shall be no more than Thirty-Three Thousand, Nine Hundred, Eighty-Seven Dollars and Fifty Cents (**\$33,987.50**) **monthly**. The Project Staffing Costs during the amended contract period shall be no more than Four Hundred, Seven Thousand, Eight Hundred, Fifty Dollars (**\$407,850**). For purposes of this Section 3.2, during Phase III of the project, Project Staff may include the following full-time staff: Project Assistant, Network Architect, Procedural Support & Training; and part-time support staffing as needed for: Procedural Support (after hours); Application Architect; and Web Programming.

"After-hours Procedural Support staffing is on as-needed basis with no cap on time and effort for emergency operations, but such support shall not cause the monthly payments to exceed the maximum staffing amount above.

"Contractors' travel costs and project materials shall not exceed a total of Six Thousand, One Hundred, Fifty Dollars (**\$6,150**) during the amended contract period, and shall be paid after submission of monthly invoices to the City and upon proper approval by the City.

"Milestone Payments not to exceed One Hundred, Thirty Thousand Dollars (**\$130,000**) during the amended period shall be made by City to Contractor, using the established invoice procedure (milestones are described in detail in the Statement of Work attached as Exhibit A), as follows:

- 1) Phase III Kickoff: \$20,000. Milestone due date: September 30, 2008
- 2) Project Initial Design: \$20,000. Milestone due date: November 30, 2008
- 3) Detailed Design: \$20,000. Milestone due date: January 31, 2009
- 4) Implementation and Training: \$20,000. Milestone due date: February 28, 2009
- 5) Field Demonstration and Documentation: \$20,000. Milestone due date: March 30, 2009
- 6) Phase III Closeout and Phase IV Preparation: \$30,000. Milestone due date: April 30, 2009

"Total payments under this Amendment 1 shall not exceed **Five Hundred, Forty-Four Thousand Dollars (\$544,000)** over the entire amended period. The above due dates, invoice dates, etc., are meant to be guidelines. They are necessarily flexible, based on the completion of contract processing."

4. The source of funds for this Amendment shall be as follows:

- a. UASI 2007 grant funds \$459,321.95
UASI Funds for this purpose are currently available.

- b. COPS MORE 2004 USDOJ grant funds \$ 84,678.05
COPS MORE 2004 Funds for this purpose are contingent upon formal approval of a budget modification by COPS. These funds will NOT be expended until such approval is received. Contractor understands that in the event said funds do not become available, he may cease work on this project after the available funds are depleted, and recommence work if the additional funds become available.

5. This Amendment Number 1 shall affect only the sections and terms and conditions referred to herein. All other terms and conditions of the Agreement shall remain in full force and effect.

6. Contractor represents and warrants that, as of the date that this Amendment Number 1 was executed, the individual signing on Contractor's behalf is duly authorized to sign Amendment Number 1 on behalf of Contractor and to legally bind Contractor.

IN WITNESS WHEREOF, this Amendment Number 1 is executed by the City of San Diego, acting by and through its City Counsel and Mayor or his designee, pursuant to San Diego City Charter Section 265 authorizing such execution, and by the Contractor.

ENFORCEMENT SUPPORT AGENCY, INC.
DALE FORTNEY
DIRECTOR, PUBLIC SAFETY OPERATIONS

CITY OF SAN DIEGO
JERRY SANDERS
MAYOR

Signed 

Signed _____

Date: 7/15/08

Date: _____

I HEREBY APPROVE the form and legality of this document this _____ day of _____, 2008.

MICHAEL J. AGUIRRE, City Attorney

By _____
 Deputy City Attorney

5-1-07 cc:

Don Newland
Dale Fortney
Donna Faller

Cheryl Hall
Kelli Sherman

DUPLICATE

ORIGINAL
AGREEMENT

AGREEMENT
FOR

PROJECT MANAGEMENT SERVICES AND TECHNICAL CONSULTING FOR THE
000871 REGIONAL 3C PROJECT PHASE II

THIS AGREEMENT is made and entered into between THE CITY OF SAN DIEGO, a municipal corporation [City], and Enforcement Support Agency (ESA) [Contractor] whose address is 550 Fesler Street, Suite G-1, El Cajon, California, 92020, with reference to the following:

RECITALS

The City is a municipal corporation duly organized and validly existing under the laws of the State of California, with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City; and

The City wishes to contract for project management services and technical consulting for a regional command, control and communications project; and

The Contractor was hired under a competitive process to perform project management and technical consulting for Phase I of this 3C project; and

The City and Contractor desire to enter into an agreement for Phase II of this regional project; and

In consideration of the above recitals and the mutual covenants and conditions set forth, herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

ARTICLE I

CONSULTANT SERVICES

1.1 **Background.** The San Diego Police Department in partnership with the City of San Diego Office of Homeland Security wishes to establish a project with ESA for Phase II of the 3Cs Project. The San Diego Regional 3Cs project is a unique partnership between regional public safety agencies. Initiated in the fall of 2005, 3Cs is a multi-phase, multi-year, multi-million dollar project which will connect emergency personnel throughout the far southwest region, and act as a critical communications backbone for collaboration during large scale incidents requiring a coordinated response from multiple agencies. ESA was selected under a competitive process to act as the project architect in Phase I, providing overall project management, analysis of business needs, recommendations for technical solutions, and coordination of the multiple agencies and vendors involved through the pilot phase. The pilot phase is expected to be completed in spring of 2007 with Phase II being implemented at that time. With guidance from the project Steering Committee, ESA will continue to work to define the project scope, set project objectives, draft project documents (risk analysis, status reports, grant administration reports), develop and implement a project marketing plan, manage the overall project timeline, interview subject matter experts in emergency management and communications to develop business requirements, assist in the

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evaluation of vendors based on business requirements, develop plans to integrate new technologies with existing emergency management protocols, perform system testing, and conduct exercises.

1.2 Scope of Work. ESA will continue to take the lead in the project management and coordination, application layer planning, development of doctrine and end use specifications, and system documentation for the Phase II efforts associated with the overall 3Cs project. In doing so, ESA will contribute the following work elements to the project:

a. Ongoing Tasks

- 1) Produce monthly progress report for dissemination to 3Cs Steering Committee.
- 2) Coordinate regular meetings of the 3Cs Application Working Group
- 3) Attend Infrastructure Working Group Meetings
- 4) Provide ongoing lead technical consulting to the development and deployment of the 3Cs Application layer.
- 5) Provide ongoing Research, Development and Test Platform Integration of new technologies found pertinent and of interest to the project.
- 6) Represent the 3Cs project at regional public safety, interoperability, and communications forums.
- 7) Develop end user community expectations, understanding and support.

b. Milestone #1: Phase II Kickoff

- 8) Develop list of potential Phase II participants
- 9) Brief public safety community on 3Cs
- 10) Develop standardized Memorandum of Understanding Amendment (MOU-A) for adding new member agencies to the project
- 11) Develop a New Participant Package for interested agencies including a Letter of Interest template, MOU-A template, explanation of on-going costs, and expected Phase II time line.
- 12) Work with 3Cs Infrastructure Working Group and Infrastructure consultants to determine costs associated with adding new locations to the network.

c. Milestone #2: Project Initial Design

- 13) Finalize list of 3Cs PII participants and locations and submit to the Urban Area Working Group for forwarding to the Unified Disaster Council with recommendation for final approval.
- 14) Coordinate signing of letters of interest from each agency included in 3Cs PII.
- 15) Coordinate purchasing and grant requirements of 3Cs PII.

d. Milestone #3: Detailed Design Document

- 16) Work with Infrastructure Working Group and Infrastructure consultants to finalize network design for new locations.
- 17) Develop final equipment lists for purchasing.
- 18) Finalize project implementation timeline.

e. **Milestone #4: Implementation and End User Training**

- 19) Determine implementation schedule.
- 20) Create training plan.
- 21) Develop system documentation.

f. **Milestone #5: Field Demonstration and Documentation**

- 22) Plan and conduct initial inter-agency functional test.
- 23) Plan and coordinate Joint Field Exercise, preferably in conjunction with a larger Homeland Security or other planned training event.
- 24) Document overall system "as-built".

g. **Milestone #6: Phase III Preparations and Phase II Closeout**

- 25) Produce "Roll-Up Plan" to move Initial Pilot entirely onto new 3C microwave infrastructure in Phase II.
- 26) Develop draft Policy and Procedures MOA for Oversight review, revision and ratification process. Phase II Closure Sign Off documentation preparation and coordination for Executive Committee Ratification.
- 27) Preparations for Phase III, Homeland Security grant request preparations, long range plans and documented upgrade or deployment paths for 3C.

1.3 Contract Administrator. The Police Department is the contract administrator for this Agreement. The Consultant shall provide the Services under the direction of a designated representative of the Police Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise. However, when this Agreement refers to an act or approval to be performed by City, that act or approval shall be performed by the Mayor or his designee, unless the Agreement specifies otherwise.

1.4 Written Authorization. Prior to performing any Services, the Consultant shall obtain from the City a written authorization to proceed. Further, throughout the term of this Agreement, the Consultant shall immediately advise the City in writing of any anticipated change in the Scope of Services, Compensation and Fee Schedule and shall obtain the City's written consent to the change prior to making any changes. In no event shall the City's consent be construed to relieve the Consultant from its duty to render all Services in accordance with applicable laws and accepted industry standards.

1.5 Confidentiality of Services. All Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission of the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City. Except for Subcontractors covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

ARTICLE II

DURATION OF AGREEMENT

2.1 Term of Agreement. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and it shall be effective until April 30, 2008, or as extended by the City.

2.1.1 Contract Extensions. Contract may be extended for a subsequent one (1) year period by written agreement of the parties, and subject to both City Council appropriation of funds and Mayor's authorization of contract extension.

2.2 Time of Essence. Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement.

2.3 Notification of Delay. The Consultant shall immediately notify the City in writing if the Consultant experiences or anticipates experiencing a delay in performing the Services within the time frames set forth in the Time Schedule. The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of the delay. If in the opinion of the City, the delay affects a material part of the City's requirements for the Services, the City may exercise its rights under Sections 2.5-2.8 of this Agreement.

2.4 Delay. If delays in the performance of the Services are caused by unforeseen events beyond the control of the Parties, such delay may entitle the Consultant to a reasonable extension of time, but such delay shall not entitle the Consultant to damages or additional compensation. Any such extension of time must be approved in writing by the City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the Consultant's work; inability to obtain materials, equipment, or labor; required additional Services; or other specific reasons agreed to between the City and the Consultant; provided, however, that: (a) this provision shall not apply to, and the Consultant shall not be entitled to an extension of time for, a delay caused by the acts or omissions of the Consultant; and (b) a delay caused by the inability to obtain materials, equipment, or labor shall not entitle the Consultant to an extension of time unless the Consultant furnishes the City, in a timely manner, documentary proof satisfactory to City of the Consultant's inability to obtain materials, equipment, or labor.

2.5 City's Right to Suspend for Convenience. The City may, at its sole option and for its convenience, suspend all or any portion of the Consultant's performance of the Services, for a reasonable period of time not to exceed six months. In accordance with the provisions of this Agreement, the City will give written notice to the Consultant of such suspension. In the event of such a suspension, in accordance with the provisions of Article III of this Agreement, the City shall pay to the Consultant a sum equivalent to the reasonable value of the Services the Consultant has satisfactorily performed up to the date of suspension. Thereafter, the City may rescind such suspension by giving written notice of rescission to the Consultant. The City may then require the Consultant to resume performance of the Services in compliance with the terms and conditions of this Agreement; provided, however, that the Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

2.6 City's Right to Terminate for Convenience. The City may, at its sole option and for its convenience, terminate all or any portion of the Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Services shall be effective upon receipt of the notice by the Consultant. After termination of this Agreement, the Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of the Consultant's Services under this Agreement. For services satisfactorily rendered in completing the work, the Consultant shall be entitled to fair and reasonable compensation for the Services performed by the Consultant before the effective date of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all documents or records related to the Consultant's Services. By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant discharges the City of all of the City's payment obligations and liabilities under this Agreement.

2.7 City's Right to Terminate for Default. If the Consultant fails to satisfactorily perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. A Default includes the Consultant's failure to adhere to the Time Schedule. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

2.8 City's Right to Terminate for Bankruptcy or Assignment for the Benefit of Creditors. If the Consultant files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to or demand upon the Consultant, immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

ARTICLE III

COMPENSATION

3.1 Amount of Compensation. The City shall pay the Consultant for performance of all Services rendered in accordance with this Agreement, including reasonably related expenses, in a lump sum amount not to exceed \$544,000

3.2 Manner of Payment. The City shall pay the Consultant in accordance with the Compensation and Fee Schedule below. For the duration of this Agreement, the Consultant shall not

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be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. Work performed by the Applications Architect shall be invoiced monthly based on time and materials incurred. Milestones are to be invoiced upon completion. Travel and project materials (not to exceed \$6,150) shall be pre-approved by the City and invoiced monthly. The Consultant shall include with each invoice a description of completed Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt. All invoices shall be detailed to show work performed and deliverables and adhere to federal guidelines regarding time and material work.

All invoices must contain the following certification:

I certify, under penalty of perjury under the laws of the State of California, that no employee providing services under the terms and conditions of this contract is currently listed on the GSA Excluded Parties listing or the OIG List of Excluded Individuals/ Entities.

I also certify that the above services were performed in accordance with the Agreement.

Printed Name and Signature

Date Signed _____

Telephone and Fax Number

Compensation and Fee Schedule

[illegible]

(1.2) Applications Architect (Labor)	7 th of each month (First month following contract execution through April 2008) Work performed by the Applications Architect will be invoiced monthly on a time and materials basis with a total project not to exceed value of \$18,000.	Total = \$18,000
		Sub-Total (1) = \$379,050
(2) Labor – 3Cs Operational Support		
(2.1) Operational Support	7 th of each month (First month following contract execution through April 2008) Work performed will be billed at a fixed fee monthly rate.	May 2007 – April 2008 \$2400 Sub-Total (2) = \$28,800
(3.1) Milestone #1 Phase II Kickoff	Target Invoice Date: 6/1/2007	\$20,000
(3.2) Milestone #2 Project Initial Design	Target Invoice Date: 6/1/2007	\$20,000
(3.3) Milestone #3 Detailed Design Document	Target Invoice Date: 6/1/2007	\$20,000
(3.4) Milestone #4 Implementation and End User Training	Target Invoice Date: 10/1/2007	\$20,000
(3.5) Milestone #5 Field Demonstration and Documentation	Target Invoice Date: 12/1/2007	\$20,000
(3.6) Milestone #6 Phase III Preparations and Phase II Closeout	Target Invoice Date: 3/15/2008	\$30,000
		Sub-Total (3) = \$130,000
(4) Miscellaneous Expenses		
(4.1) Miscellaneous Expenses including travel (Must be pre-approved)	7 th of the month following the when the expense is incurred.	Sub-Total (4) = \$6,150

Grand Total = \$544,000.00

* Due to overlapping phases of the 3Cs project, the last two months labor costs will be billed at half price to reflect the staffing effort for Phase II only. Any efforts outside of Phase II will be subject to change order or separate statement of work. This is to insure there is no duplicate billing with other phases or redundant efforts undertaken.

3.3 Additional Services. The City may require that the Consultant perform additional Services beyond those described in the Scope of Services [Additional Services]. Prior to the Consultant's performance of Additional Services, the City and the Consultant must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with the Compensation and Fee Schedule below. The City will pay the Consultant for the performance of Additional Services in accordance with Section 3.2.

Project Staff Hourly Rate

Applications Architect	\$120 /hour
Project Assistant	\$105 /hour
Project Intern	\$ 20 /hour

Project Staff Fixed Fee

Operations Support	\$2400 /month
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All work requests will be documented as Change Orders and Work Requests with City signature prior to commencement of work.

3.4 Additional Costs. Additional Costs are those costs that can be reasonably determined to be related to the Consultant's errors or omissions, and may include Consultant, City, or Subcontractor overhead, construction, materials, demolition, and related costs. The Consultant shall not be paid for the Services required due to the Consultant's errors or omissions, and the Consultant shall be responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, the Consultant. Whether or not there are any monies due, or becoming due, the Consultant shall reimburse the City for Additional Costs due to the Consultant's errors or omissions.

ARTICLE IV

CONSULTANT OBLIGATIONS

4.1 Industry Standards. The Consultant agrees that the Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent project management firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the Mayor or his designee, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

4.2.1 Access. The City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subcontractor's premises to review and audit the Consultant's or Subcontractor's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of the Consultant's premises, of any and all records related to the Services provided hereunder with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This information shall be kept by the City in the strictest confidence allowed by law.

4.2.2 Audit. The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City determines are necessary to discover and verify that the Consultant or Subcontractor is in compliance with all requirements under this Agreement.

4.2.2.1 Cost Audit. If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

4.2.2.1.1 Accounting Records. The Consultant and all Subcontractors shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. The Consultant and Subcontractors shall make available to the City for review and audit, all Service related accounting records and documents, and any other financial data. Upon the City's request, the Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to the City.

4.2.3 City's Right Binding on Subcontractors. The Consultant shall include the City's Right as described in Section 4.2, in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subcontractors.

4.2.4 Compliance Required before Mediation or Litigation. A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is the Consultant's and Subcontractors full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

4.3 Insurance. The Consultant shall not begin the Services under this Agreement until it has: (a) obtained, and provided to the City, insurance certificates reflecting evidence of all insurance as set forth below; however, the City reserves the right to request, and the Consultant shall submit, copies of any policy upon reasonable request by the City; (b) obtained City approval of each company or companies as described in Exhibit D; and (c) confirmed that all policies contain the specific provisions required in Exhibit D. Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Except as provided for under California law, all policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element

of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the City.

Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

Consultant shall maintain insurance in full force and effect during the entire period of performance under contract. Failure to do so shall be cause for termination of the contract.

All policies must have a thirty (30) day non-cancellation clause giving the City thirty (30) days prior written notice in the event a policy is canceled.

Insurance coverage must be from an insurance carrier licensed in the State of California and rated "A" or better by the A.M. Best Key Rating Guide.

The following coverage is required:

1. Commercial General Liability for a minimum of one million dollars each occurrence (\$1,000,000.00 EO). The City of San Diego must be named as an additional insured on the certificate.
2. Workers' Compensation coverage in accordance with the laws of the State of California. Policy must contain a Waiver of Subrogation of Rights against the City of San Diego.

4.4 Subcontractors. The Consultant's hiring or retaining of any third parties [Subcontractors] to perform Services [Subcontractor Services] is subject to prior approval by the City. The Consultant shall list on the Subcontractor List [Exhibit E Attachment BB] all Subcontractors known to the Consultant at the time this Agreement is entered. If at any time after this Agreement is entered into the Consultant identifies a need for additional Subcontractor Services, the Consultant shall give written notice to the City of the need, at least forty-five days before entering into a contract for such Subcontractor Services. The Consultant's notice shall include a justification, a description of the scope of work, and an estimate of all costs for the Subcontractor Services. The Consultant may request that the City reduce the forty-five day notice period. The City agrees to consider such requests in good faith.

4.4.1 Subcontractor Contract. All contracts entered into between the Consultant and any Subcontractor shall contain the information as described in Sections 4.6, 4.7, and 4.8, and shall also provide as follows:

4.4.1.1 Each Subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this Agreement. Each Subcontractor shall obtain, and the Consultant shall require the Subcontractor to obtain, all policies described in Exhibit D in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

4.4.1.2 The Consultant is obligated to pay the Subcontractor, for Consultant and City-approved invoice amounts, out of amounts paid by the City to the Consultant, not later than fourteen

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working days from the Consultant's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Consultant and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.

4.4.1.3 In the case of a deficiency in the performance of Subcontractor Services, the Consultant shall notify the City in writing of any withholding of payment to the Subcontractor, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subcontractor must take in order to receive the amount withheld. Once the Subcontractor corrects the deficiency, the Consultant shall pay the Subcontractor the amount withheld within fourteen working days of the Consultant's receipt of the City's next payment.

4.4.1.4 In any dispute between the Consultant and Subcontractor, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in Article VI of this Agreement in any dispute between the Consultant and Subcontractor should the City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.

4.4.1.5 The Subcontractor is bound to the City's Equal Opportunity Contracting Program covenants set forth in Article IV, Section 4.6 of this Agreement.

4.4.1.6 The City is an intended beneficiary of any work performed by the Subcontractor for purposes of establishing a duty of care between the Subcontractor and the City.

4.5 Non-Discrimination Requirements.

4.5.1 Compliance with the City's Equal Opportunity Contracting Program. The Consultant shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements. The Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Consultant shall provide equal opportunity in all employment practices. The Consultant shall ensure that its Subcontractors comply with the City's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold the Consultant liable for any discriminatory practice of its Subcontractors.

4.5.2 Non-Discrimination Ordinance. The Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or suppliers. The Consultant shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subcontractors, vendors and suppliers.

4.5.3 Compliance Investigations. Upon the City's request, the Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that the Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid

by the Consultant for each subcontract or supply contract. The Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517.] The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

4.6 Drug-Free Workplace. The Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. The Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form [Exhibit F].

4.6.1 Consultant's Notice to Employees. The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

4.6.2 Drug-Free Awareness Program. The Consultant shall establish a drug-free awareness program to inform employees about all of the following:

4.6.2.1 The dangers of drug abuse in the work place.

4.6.2.2 The policy of maintaining a drug-free work place.

4.6.2.3 Available drug counseling, rehabilitation, and employee assistance programs.

4.6.2.4 The penalties that may be imposed upon employees for drug abuse violations.

4.6.3 Posting the Statement. In addition to Section 4.6.1 above, the Consultant shall post the drug-free policy in a prominent place.

4.6.4 Subcontractor's Agreements. The Consultant further certifies that each contract for Subcontractor Services for this Agreement shall contain language that binds the Subcontractor to comply with the provisions of Article IV, Section 4.6 of this Agreement, as required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and Subcontractors shall be individually responsible for their own drug-free work place program.

4.7 Product Endorsement. The Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

4.8 Conflict of Interest. The Consultant is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq.,

and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

4.8.1 If, in performing the Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

4.8.1.1 Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The Consultant shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the Consultant is subject to a conflict of interest code. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

4.8.1.2 If the City requires the Consultant to file a statement of economic interests as a result of the Services performed, the Consultant shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

4.8.2 The Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

4.8.3 The Consultant's personnel employed for the Services shall not accept gratuities or any other favors from any Subcontractors or potential Subcontractors. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

4.8.4 If the Consultant violates any conflict of interest law or any of the provisions in this Section the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorneys' fees and all damages sustained as a result of the violation.

4.9 **Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the City's request, the Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The Contractor's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

4.10 **Compensation for Mandatory Assistance.** The City will reimburse the Contractor for any fees and expenses incurred for required Mandatory Assistance as Additional Services. The

City in its sole discretion, shall determine whether these fees, expenses, and Services rendered under this Section, were necessary due to the Contractor's or its agents', officers', and employees' conduct or failure to act. If the City determines that such fees, expenses, or Services were necessary due to the Contractor's or its agents', officers', and employees' conduct, in part or in whole, the City is entitled to be reimbursed for any payments made for these fees, expenses, or Services. Reimbursement may be through any legal means necessary, including City's withholding of payment.

4.11 Attorney Fees related to Mandatory Assistance. In providing the City with dispute or litigation assistance, the Contractor or its agents, officers, and employees may incur expenses and/or costs. The Contractor agrees that any attorney fees it may incur as a result of assistance provided are not reimbursable.

ARTICLE V

CITY

5.1 Additional Consultants or Contractors. The City reserves the right to employ, at its own expense, such additional Consultants or contractors as the City deems necessary to perform work or to provide the Services.

5.2 Employment of City Staff. This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council or Mayor in connection with the selection of the Consultant.

ARTICLE VI

INDEMNIFICATION

6.1 Indemnification and Hold Harmless Agreement. With respect to any liability, including but not limited to claims asserted or costs, losses, attorney fees, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of the Consultant, or the Consultant's employees, agents, and officers, arising out of any services performed involving this Project, except liability for the Professional Services covered under Section 6.2, the Consultant agrees to defend, indemnify, protect, and hold harmless the City, its agents, officers, and employees from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party. The Consultant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the active negligence, sole negligence or sole willful misconduct of the City, its agents, officers or employees. This Section in no way alters, affects or modifies the Consultant's obligations and duties under Section 4.3.4.1 herein.

6.2 Indemnification for Professional Services. As to the Consultant's professional obligations, work or services involving this Project, the Consultant agrees to defend, indemnify and hold harmless the City, its agents, officers and employees from and against any and all liability, claims, costs, and damages, including but not limited to, attorney fees, and losses or payments for injury to any person or property, caused directly or indirectly from the negligent acts, errors or omissions of the Consultant or the Consultant's employees, agents or officers.

6.3 Enforcement Costs. The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Sections 6.1 and Section 6.2.

ARTICLE VII

MEDIATION

7.1 Mandatory Non-binding Mediation. With the exception of Sections 2.5-2.8 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.

7.2 Mandatory Mediation Costs. The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator [Mediator], and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.

7.3 Selection of Mediator. A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator will be knowledgeable in construction aspects and may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the Mediator is selected from a list provided by AAA, the initiating Party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees, a list of three requested Mediators marked in preference order, and a preference for available dates.

7.3.1 If AAA is selected to coordinate the mediation [Administrator], within ten working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing Party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

7.3.2 The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred Mediator from the individual Parties' lists who is available to serve within the designated time frame.

7.3.3 If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be mutually agreed upon.

7.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

7.4.1 Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

7.4.2 Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE VIII

INTELLECTUAL PROPERTY RIGHTS

8.1 Work For Hire. All original designs, plans, specifications, reports, documentation, and other informational materials, whether written or readable by machine, originated or prepared exclusively for the City pursuant to this Agreement (Deliverable Materials) is "work for hire" under the United States Copyright law and shall become the sole property of the City. The Contractor, including its employees, and independent Subcontractor(s), shall not assert any common law or statutory patent, copyright, trademark, or any other intellectual proprietary right to the City to the deliverable Materials.

8.2. Rights in Data. All rights (including, but not limited to publication(s), registration of copyright(s), and trademark(s)) in the Deliverable Materials, developed by the Contractor, including its employees, agents, talent and independent Subcontractors pursuant to this Agreement are the sole property of the City. The Consultant, including its employees, agents, talent, and independent Subcontractor(s), may not use any such Product mentioned in this article for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

8.3 Intellectual Property Rights Assignment Consultant, its employees, agents, talent, and independent Subcontractor(s) agree to promptly execute and deliver, upon request by City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials; and cooperate and assist in the prosecution of any action or opposition proceeding involving said rights and any adjudication of the same.

8.4 Moral Rights Consultant, its employees, agents, talent, and independent Subcontractor(s) hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Deliverable Materials which Consultant, its employees, agents, talent, and independent Subcontractor(s), may now have or which may accrue to Consultant, its employees, agents, talent, and independent Subcontractor(s)' benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the and the right to object to any modification, translation or use of said content, and any similar rights existing under judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

8.5 Subcontracting In the event that Consultant utilizes a Subcontractor(s) for any portion of the Work that is in whole or in part of the specified Deliverable(s) to the City, the agreement between Consultant and the Subcontractor [Subcontractor Agreement] shall include a statement that identifies that the Deliverable/Work product as a "work-for hire" as defined in the Act and that all intellectual property rights in the Deliverable/Work product, whether arising in copyright, trademark, service mark or other belongs to and shall vest solely with the City. Further, the Subcontractor Agreement shall require that the Subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to the City, all titles, rights and interests in and to said Work/Deliverable, including all copyrights and other intellectual property rights. City shall have the right to review any Subcontractor agreement for compliance with this provision.

8.6 Publication. Consultant may not publish or reproduce any Deliverable Materials, for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

8.7 Intellectual Property Warranty and Indemnification. Consultant represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Consultant to produce, at Consultant's own expense, new non-infringing materials, deliverables or Works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Consultant further agrees to indemnify and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services or Works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Consultant receives payment under this contract, City shall be entitled, upon written notice to Consultant, to withhold some or all of such payment.

8.8 Enforcement Costs. The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Article 8, including but not limited to, attorney's fees.

ARTICLE IX

MISCELLANEOUS

9.1 Notices. In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notices shall be addressed as follows:

CITY:
William Maheu
San Diego Police Department
1401 Broadway
San Diego, CA 92101

ESA:
Dale Fortney
ESA
550 Fesler Street, Suite G-1
El Cajon, CA 92021

9.2 Headings. All article headings are for convenience only and shall not affect the interpretation of this Agreement.

9.3 Non-Assignment. The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

9.4 Independent Contractors. The Consultant and any Subcontractors employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

9.5 Consultant and Subcontractor Principals for Consultant Services. It is understood that this Agreement is for unique Services. Accordingly, performance of Services may not be delegated to Subcontractors without the prior written consent of the City. Further, the City reserves the right, after consultation with the Consultant, to require any of the Consultant's employees or agents to be removed from a position of providing Services.

9.6 Covenants and Conditions. All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant, shall be deemed to be both covenants and conditions.

9.7 Compliance with Controlling Law. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or

regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

9.8 Jurisdiction and Attorney Fees. The jurisdiction and applicable laws for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in accordance with the laws of the State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.

9.9 Successors in Interest. This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

9.10 Integration. This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, amendment, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this Agreement.

9.11 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

9.12 No Waiver. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

9.13 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

9.14 Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

9.15 Drafting Ambiguities. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

9.16 [Reserved]

9.17 Conflicts Between Terms. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code

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and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

IN WITNESS WHEREOF, this Agreement is executed by THE CITY OF SAN DIEGO, acting through the Mayor, and by Enforcement Support Agency.

THE CITY OF SAN DIEGO

ENFORCEMENT SUPPORT AGENCY

By Lance Wade
Lance Wade,
Director, Purchasing & Contracting

By Dale Fortney
Dale Fortney, Director
Enforcement Support Agency

I HEREBY APPROVE the form and legality of the foregoing Agreement this 3rd day of May, 2007.

Michael Aguirre, CITY ATTORNEY

By [Signature]

5-11-07 CC:

Don Newland

Dale Fortney

Lynne Fallor

Cheryl Hall

Kelli Sherman

000891

RESOLUTION NUMBER R- 302411
DATE OF FINAL PASSAGE MAR 12 2007SOUTHWEST REGIONAL INTEROPERABLE
COMMUNICATIONS GRANT FUNDED EXPENDITURE

WHEREAS, the San Diego Police Department [SDPD] previously accepted and received a federal grant from the Office of Community Oriented Policing (COPS) Making Officer Redeployment Effective (MORE) for the development of a far-southwest regional interoperable Command and Control Communications (3Cs) system; and

WHEREAS, the San Diego Police Department [SDPD] previously accepted and received an Urban Areas Security Initiative (UASI) federal grant to assist high-density, high-threat urban areas in developing and maintaining advanced emergency incident response systems; and

WHEREAS, the City of San Diego administers both grants; and

WHEREAS, the City wishes to expend \$544,000 in grant funds with Enforcement Support Agency (ESA) in ongoing development, implementation and refinement of the 3Cs system; and

WHEREAS, all expenditures authorized by this action are grant funded, NOW,
THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his representative be and hereby is authorized and empowered, to enter into an agreement with ESA as outlined in the draft Statement of Work, on file with the City Clerk's Office, File

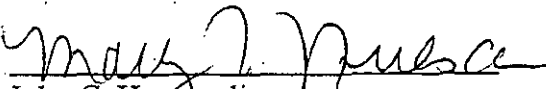
No. PR-302411

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that the Auditor and Comptroller be and are hereby authorized and empowered, to appropriate and expend \$544,000 in grant funds with ESA in the continuing development, implementation and refinement of this project.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that the Chief of Police, and the Director of the City's Office of Homeland Security are to direct and oversee this expenditure, in compliance with the grant program.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


John C. Hemmerling
Deputy City Attorney

JCH:aml
February 20, 2007
POLICE
R-2007-818

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 06 2007

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 3-12-07

(date)


JERRY SANDERS, Mayor

Vetoed: _____

(date)

JERRY SANDERS, Mayor

000893

Passed by the Council of The City of San Diego on March 6, 2007 by the following vote:

YEAS: PETERS, FAULCONER, ATKINS, YOUNG, MAIENSCHN, FRYE, MADAFFER, HUESO.
NAYS: NONE.
NOT PRESENT: NONE.
VACANT: NONE.
RECUSED: NONE.

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Mary Zumaya, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-302411 approved by the Mayor of the City of San Diego, California on
March 12, 2007.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By: Mary Zumaya, Deputy

**ESA Statement of Work
3Cs Phase III****ORIGINAL
STATEMENT
OF WORK****Ongoing Tasks**

1. Produce monthly progress report for dissemination to 3Cs Steering Committee
2. Maintain the project budget worksheet including all purchase orders and invoices for all project funding sources.
3. Coordinate regular meetings of the 3Cs User Group
4. Attend and participate at 3Cs Steering Committee, Infrastructure and Technical Working Group Meetings
5. Provide lead technical consulting for the development and deployment of the 3Cs application layer and network.
6. Provide ongoing research, development and test platform integration of new technologies found pertinent and of interest to the project.
7. Brief public safety community on 3Cs Program status and process for participation. Represent the 3Cs project at regional public safety, interoperability, and communications forums.

Milestone #1: Phase III Kickoff

8. Develop the list of prospective Phase III participants and present it to the 3Cs Steering Committee for approval. These participants will be compiled from the list of all agencies who have expressed interest, and evaluated by 3Cs engineering staff based on proximity to the existing network infrastructure.
Deliverable: Phase III Participant List (UASI Grant Milestone #2)
9. Develop Phase III project plan and present to Steering Committee for approval. Work with Program Manager to document project scope, estimated timeline, budget and definition of roles and responsibilities.
Deliverables: Phase III Project Plan, Scope, Timeline, Project & Program Roles and Responsibilities
10. Work with 3Cs Infrastructure Working Group to determine costs associated with adding each new location to the network and determine overall budget for the phase based on grants awarded.
Deliverables: Phase III Project Budget

Milestone #2: Project Initial Design

11. Finalize list of 3Cs Phase III participants and locations and submit to the Steering Committee for final approval.
Deliverable: Phase III Final Participant List
12. Conduct meetings with each Phase III participant to set expectations and explain the details of the 3Cs implementation process.
Deliverable: Acknowledgement Document for each Phase III Participant (UASI Grant Milestone #3)
13. Develop and host 3Cs web site including project documents, end-user support documents and information for perspective participants. URL to be approved by 3Cs Steering Committee.
Deliverable: 3Cs Web Site as described above

Milestone #3: Detailed Design Document (UASI Grant Milestone #3)

14. Work with Infrastructure Working Group to finalize network design for all new Phase III locations.

Deliverable: Completed site survey for each Phase III location.

15. Develop final equipment list for each Phase 3 location.

Deliverable: Equipment list for each Phase III site.

16. Finalize project implementation Phase 3 network infrastructure time-line.

Deliverable: Phase III Network Infrastructure Schedule

Milestone #4: Implementation and End User Training

17. Develop end user equipment installation schedule and work with customer through installation process.

Deliverable: Signed customer acceptance document for each Phase III site. (UASI Grant Milestone #6)

18. Conduct end user training for each phase III participant.

Deliverable: Sign-in sheet for customer training including at least one person from each Phase III site. (UASI Grant Milestone #8)

19. Provide system documentation to each Phase III participant.

Deliverable: Acknowledgement Document for each Phase III Participant

Milestone #5: Field Demonstration and Documentation

20. Plan and conduct initial inter-agency functional test of all Phase III equipment.

Deliverable: Sign off by 3Cs Program Manager (UASI Grant Milestone #7)

21. Plan and coordinate Joint Field Exercise, preferably in conjunction with a larger regional Homeland Security or other planned training event. (UASI Grant Milestone #10)

Deliverable: Sign off by 3Cs Program Manager

22. Update support documentation including overall system "as-built".

Deliverable: Updated System Documentation

Milestone #6: Phase IV Preparations and Phase III Closeout

23. Develop Phase III Closure Sign Off documentation and coordinate 3Cs Steering Committee and Board of Directors ratification.

Deliverable: Phase III Closure Document signed off by Program Manager (UASI Grant Milestone #9)

24. Document long range plan for 3C deployment.

Deliverable: 3Cs Long Range Plan signed off by Program Manager

25. Ensure web site is updated with all close-out documents through Phase III.

Deliverable: Web Site updates signed off by Program Manager

Project Coordinator

The Project Coordinator will work directly with the Program Manager and will be responsible for managing the administrative tasks associated with the implementation of Phase III of the project. This includes coordinating implementation schedules, documenting equipment installations, conducting training and ensuring that 3Cs Phase III progresses according to the implementation schedule. Additionally, it will be the role of the Project Coordinator to document the project, including Project History, Meeting Notes, and System As-Built Documentation.

Network Architect

As with 3Cs Phases I & II, ESA will continue to assist with the planning and rollout of the network layer. The Network Architect is a technical resource familiar with the applications, operations, and infrastructure involved in the 3Cs network. The Network Architect's primary responsibility will be to design and manage the implementation of new sites on the network as pertains to the routing of traffic across the network. The Network Architect will work with the Program Manager, Applications Working Group, Network Operations and Maintenance Group, and Infrastructure Working Group to ensure a well designed and implemented application of the network.

Procedural Support Team

Due to the critical nature of emergency management, it is important that this system be well-supported, especially while users are still learning to use the equipment. ESA will train no fewer than four permanent staff members on procedural and operational support of the 3Cs system. Members of the Procedural Support Team will be available 24 hours a day, 7 days a week to assist 3Cs users both over the phone and on site. Additionally, 3Cs Procedural Support Team will be available to assist with setting up equipment for drills, and exercises, and incidents. The Procedural Support Team will also be responsible for continued training of staff at 3Cs participating agencies to ensure a smooth turnover no later than March 15, 2009.

Project Application Architect

An Applications Architect and New Technology evaluator will be provided on a part time basis to enable the examination, evaluation and presentation of new technologies and products pertinent specifically to the continued development of the 3C's community. This will be provided on an ongoing basis to prepare such items of interest for presentation to the various working groups, stake holders and support during pilot or other test deployments.

Web Programmer

The Web Programmer will create and maintain the 3Cs web site used to provide support to end-users, retrieve system documentation and educate perspective participants.

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Contract Type

This contract will be administered through the City of San Diego Public Safety and Homeland Security Department under the direction of the 3Cs Program Manager. It is a fixed fee effort, with additional efforts such as work performed by the Applications Architect invoiced monthly based on a time and materials incurred. Labor will be billed on a monthly basis beginning with the execution date of this contract. Milestones will be invoiced upon successful completion. Travel and project materials (not to exceed \$6,150) shall be pre-approved and invoiced monthly. All subcontractors will be pre-approved prior to inclusion on the project. All invoices shall be detailed to show work performed and deliverables and adhere to federal guidelines regarding time and material work.

For cases outside the control of ESA which impact milestone deliverables, ESA reserves the right to request reasonable modifications of the deliverable subject to approval of the Program Manager.